

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NIGHTINGALE GROUP, LLC,
NIGHTINGALE PROPERTIES, LLC,
and NIGHTINGALE REALTY, LLC,

Plaintiffs,

v.

CWCAPITAL ASSET MANAGEMENT LLC,
and BANK OF AMERICA, N.A.,

Defendants.

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Civil Action No. 11 CIV 9293 (PAE)

DECLARATION OF C. ALEXANDER HORTIS

Pursuant to 28 U.S.C. § 1746, C. Alexander Hortis declares as follows:

1. I am over eighteen years of age, competent to testify, and have personal knowledge of the matters stated in this declaration.

2. I am an attorney duly admitted to practice law in the United States District Court for the Southern District of New York.

3. I submit this declaration in order to attach true and accurate copies of documents referenced in the Memorandum of Law of Defendants CWCapital Asset Management LLC, and Bank of America, N.A., in Support of Their Motion to Dismiss the Complaint of Plaintiffs The Nightingale Group, LLC, Nightingale Properties, LLC, and Nightingale Realty, LLC.

4. Attached hereto as Exhibit 1 is a true copy of Plaintiffs' Complaint in this action.

5. Attached hereto as Exhibit 2 is a true copy of the libel complaint filed in the Chancery Court for Madison County, Tennessee, as Nightingale Properties, et. al. v. Bank of Am., et. al., CV-67615/2011.

6. Attached hereto as Exhibit 3 is a true copy of the libel complaint filed in the Supreme Court of the State of New York, New York County, in Nightingale Properties, LLC, et. al. v. Bank of America, N.A., et. al., Index No. 652400/2011.

7. Attached hereto as Exhibit 4 is a true copy of the loan action filed in the Chancery Court for Madison County, Tennessee, in Bank of Am., N.A., et. al. v. NG 1923 Emporium, et. al., CV-66954/2010.

8. Attached hereto as Exhibit 5 is a true copy of the order of summary judgment on the guaranty, issued by the Chancery Court for Madison County, Tennessee, in Bank of Am., N.A., et. al. v. NG 1923 Emporium, et. al., CV-66954/2010.

9. Attached hereto as Exhibit 6 is a true copy of the motion to dismiss the libel complaint filed in the Chancery Court for Madison County, Tennessee, in Nightingale Properties, et. al. v. Bank of Am., et. al., CV-67615/2011.

10. Attached hereto as Exhibit 7 is the letter issued by the Chancery Court for Madison County, Tennessee, raising the issue of its jurisdiction in Nightingale Properties, et. al. v. Bank of Am., et. al., CV-67615/2011.

11. Attached hereto as Exhibit 8 is a true copy of the executed Loan Sale Agreement for the Pittsburgh Property.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 1, 2011.

By: 
C. ALEXANDER HORTIS